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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

BRIAN LAWRENCE SNOKE,	) NO. CV 11-6141-TJH (MAN)
	)
Petitioner,	) ORDER: DISMISSING PETITION
	) FOR WRIT OF HABEAS CORPUS;
v.	) AND DENYING CERTIFICATE
	) OF APPEALABILITY
UNKNOWN,	)
	)
Respondent.	)
_____	)

Petitioner, a California state prisoner, filed a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, on July 26, 2011 ("Petition"). Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts provides that a petition for writ of habeas corpus "must" be summarily dismissed "[i]f it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court." Here, it plainly appears that the allegations of the Petition are not cognizable. Therefore, the Petition must be dismissed.

The two-page Petition does not utilize or follow the format of the

1 Section 2254 habeas petition form that must to be used in this district.  
2 See Local Rule 83-16.1; see also Rule 2(d) of the Rules Governing  
3 Section 2254 Cases in the United States District Courts. The Petition  
4 does not identify when and where Petitioner was convicted or identify  
5 when and how Petitioner exhausted any habeas claim(s) he purports to  
6 raise. The Petition also violates Rule 2(a) in that it fails to name a  
7 respondent against whom an order granting federal habeas relief could be  
8 issued. These defects are correctable. However, the underlying premise  
9 for the Petition is not, and thus, summary dismissal is required.

10  
11 The Petition seeks the appointment of counsel to assist Petitioner  
12 in his efforts to obtain state habeas relief. He complains that the  
13 state courts, in his state habeas actions, failed to appoint attorneys  
14 or experts on his behalf, and he characterizes this failure as a  
15 violation of federal law. Petitioner asks that this Court order six  
16 named attorneys to provide legal services to him, on an "involuntary pro  
17 bono" basis, in his state habeas proceedings.

18  
19 It is well-settled that federal habeas relief is available only to  
20 state prisoners who are "in custody in violation of the Constitution or  
21 laws or treaties of the United States." 28 U.S.C. §§ 2241, 2254; see  
22 also Estelle v. McGuire, 502 U.S. 62, 68, 112 S. Ct. 475, 480  
23 (1991)(same); Smith v. Phillips, 455 U.S. 209, 221, 102 S. Ct. 940, 948  
24 (1982)(federal habeas courts "may intervene only to correct wrongs of  
25 constitutional dimension"). Absent an independent federal  
26 constitutional violation, "it is not the province of a federal habeas  
27 court to re-examine state-court determinations on state-law questions."  
28 Estelle, 502 U.S. at 68, 112 S. Ct. at 480; Little v. Crawford, 449 F.3d

1 1075, 1083 n.6 (9th Cir. 2006)(observing that a showing of a possible  
2 "'variance with the state law'" does not constitute a federal question,  
3 and that federal courts "'cannot treat a mere error of state law, if one  
4 occurred, as a denial of due process; otherwise, every erroneous  
5 decision by a state court on state law would come here as a federal  
6 constitutional question'"; citation omitted); Bonin v. Calderon, 59 F.3d  
7 815, 841 (9th Cir. 1995)(violation of a "state law right does not  
8 warrant habeas corpus relief").

9  
10 Plaintiff's request does not state a cognizable basis for federal  
11 habeas relief. This Court does not have any jurisdiction to order  
12 attorneys to provide free representation to Petitioner against their  
13 wishes, much less in proceedings that are not pending in this Court.  
14 See Mallard v. U.S. Dist. Court for Southern Dist. of Iowa, 490 U.S.  
15 296, 310, 109 S. Ct. 1814, 1823 (1989)(federal courts do not have the  
16 authority to make coercive appointments of counsel in civil cases).

17  
18 The failure of the state courts to provide Petitioner with counsel  
19 also does not raise any issue of federal constitutional concern. It is  
20 well-established that federal habeas relief is not available to redress  
21 errors in state post-conviction proceedings. Franzen v. Brinkman, 877  
22 F.2d 26, 26 (9th Cir. 1989)(*per curiam*)("a petition alleging errors in  
23 the state post-conviction review process is not addressable through  
24 [federal] habeas corpus proceedings"); see also Ortiz v. Stewart, 149  
25 F.3d 923, 939 (9th Cir. 1998)(federal habeas relief is not available to  
26 redress alleged procedural errors in state post-conviction  
27 proceedings"); Gerlaugh v. Stewart, 129 F.3d 1027, 1045 (9th Cir.  
28 1997)(errors committed during state post-conviction proceedings are not

1 cognizable in a federal habeas action); Villafuerte v. Stewart, 111 F.3d  
2 616, 632 n.7 (9th Cir. 1997)(claim that petitioner "was denied due  
3 process in his state habeas corpus proceedings" was not cognizable on  
4 federal habeas review). An attack on a petitioner's state post-  
5 conviction proceedings "is an attack on a proceeding collateral to the  
6 detention and not the detention itself." Nicholas v. Scott, 69 F.3d  
7 1255, 1275 (5th Cir. 1995). "Errors or defects in the state post-  
8 conviction proceeding do not . . . render a prisoner's detention  
9 unlawful or raise constitutional questions cognizable in [federal]  
10 habeas corpus proceedings." Williams v. Missouri, 640 F.2d 140, 143-44  
11 (8th Cir. 1981).


12  
13 Whether or not the state courts complied with California law or  
14 committed errors by declining to provide Petitioner with counsel and/or  
15 experts in his state habeas proceedings is not an issue that can be  
16 resolved under 28 U.S.C. § 2254. Petitioner's complaint about the  
17 process by which his state habeas actions were resolved simply is not  
18 cognizable through a federal habeas action.

19  
20 The Petition, on its face, shows that Petitioner is not entitled to  
21 federal habeas relief, and thus, summary dismissal is required pursuant  
22 to Rule 4. Accordingly, IT IS ORDERED that: the Petition is dismissed  
23 without prejudice; and Judgment shall be entered dismissing this action  
24 without prejudice.

25  
26 In addition, pursuant to Rule 11(a) of the Rules Governing Section  
27 2254 Cases in the United States District Courts, the Court has  
28 considered whether a certificate of appealability is warranted in this

1 case. See 28 U.S.C. § 2253(c)(2); Slack v. McDaniel, 529 U.S. 473, 484-  
2 85, 120 S. Ct. 1595, 1604 (2000). The Court concludes that a  
3 certificate of appealability is unwarranted, and thus, a certificate of  
4 appealability is DENIED.

5  
6 DATED: January 23, 2012

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8   
9 TERRY J. HATTER, JR.  
UNITED STATES DISTRICT JUDGE

10 PRESENTED BY:

11   
12 MARGARET A. NAGLE  
13 UNITED STATES MAGISTRATE JUDGE